

Notice of Allowability

Application No.

09/874,285

Applicant(s)

NAGASHIMA ET AL.

Examiner

Hunter B. Lonsberry

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 6/12/06.
2. ☒ The allowed claim(s) is/are 109-113.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Edward Kmett on 8/31/06.

Claim 112, line one, replace "on which is stored" with "encoded with".

Claim 112, line 3, between "path" and the comma, add "and executed by a processor".

Allowable Subject Matter

2. The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record does not disclose nor reasonably suggest a computer readable medium, apparatus or method as claimed in claims 109, 112 and 113, in which a reception step of receiving a request for an image, a detection step of detecting a transmittable rate of the transmission path upon receiving a request by the reception step, a selection step adapted to select a resolution corresponding to the transmittable rate detected by the detection step, a transmission step adapted to transmit the image, having the resolution selected

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by the selection step, in the transmittable rate detected by the detection step, and a charge step adapted to charge a user for transmission of the image having the resolution selected by the selection step based on the transmittable rate detected by the detection step.

U.S. Patent 5,802,502 to Gell discloses in figure 13, an image transmission apparatus comprising:

- a reception unit 905, adapted to receive from an external terminal 900 (column 12, lines 42-63), an image transmission request and an image quality request (column 12, line 61-column 13, line 5);

- a processing unit, adapted to process an image designated by the image transmission request in accordance with the image quality request (column 13, lines 5-17), the processing unit then selects the appropriate device which will stream the images to a user);

- a transmission unit (video supply station connected via network 903, column 12, lines 34-26, column 13, lines 15-17), adapted to transmit the processed image to the external terminal (column 13, lines 15-17) and

- a deriving unit, adapted to derive a charge based on the image quality set by the image quality request. (column 13, lines 3-11).

Gell specifically fails to teach detecting a transmittable rate of the transmission path for transmitting a requested image upon receiving the request for the image, selecting a resolution corresponding to the detected transmittable rate, transmitting the image in the selected resolution based on the detected rate, and charging the user based upon the corresponding selected resolution as


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claimed by applicant. Rather Gell uses a "broker" which offers a recommendation to a user for a provider which offers programming at the cheapest or best value currently available (column 13, lines 22-39).

U.S. Patent 5,742,892 to Chaddha discloses a media server with which, a user may arrange to pay for a video service and its' corresponding bandwidth, the user can specify the cost they are willing to pay and an appropriately scaled stream will be provided by the server (column 12, line 57-column 13, lines 13, processing is preformed by storing and transmitting different enhancement layers for the video, column 7, lines 25-60, different spatial resolutions, frame rates, color conversions and bit rates may be transmitted, column 9, lines 14-25, 55-column 10, line 42 column 12, lines 20-30).

Chaddha specifically fails to teach detecting a transmittable rate of the transmission path for transmitting a requested image upon receiving the request for the image, selecting a resolution corresponding to the detected transmittable rate, transmitting the image in the selected resolution based on the detected rate, and charging the user based upon the corresponding selected resolution as claimed by applicant. Rather a user specifies the cost they are willing to pay.

Claims 109-113 are allowed.



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